

REMARKS

Applicants provisionally elect Claims 1-3, with traverse. Claims 4-6 have been withdrawn. It is believed that the same classes should be searched in the U.S. Patent and Trademark Office and no additional work is imposed upon the U.S. Patent and Trademark Office.

The Examiner claims the application contains claims directed to the patentably distinct species shown in figure 2, figure 3, figure 4, and figure 5. The Examiner further states the species are independent or distinct because they are not obvious variants of the same invention because the structure is different for each of the figures. The application, however, does not contain independent claims that are directed to each figure. There are two independent claims in the application. Independent claim 1 recites "a first transfer gate associated with the first photosensitive region that selectively passes charge at first and second levels which, when at the first level, causes the charge stored in the first region to be passed to one of its associated charge-coupled devices, and when the transfer gate is at the second level, charge stored in the second region is passed to one of the associated charge-coupled devices." With respect to the figures, claim 1 includes language that relates to the embodiments shown in figures 2 and 3.

Independent claim 4 recites "a first and second transfer gate associated with the first photo sensitive region that respectively passes charge to from the first and second levels to respectively associated charge-coupled devices." Claim 4 therefore includes language that relates to the embodiments shown in figures 4 and 5. Thus, the application does not include claims directed to each specie shown in figure 2, figure 3, figure 4, and figure 5.

Moreover, Section 806.06 of the Manual of Patent Examining Procedure (MPEP) states:

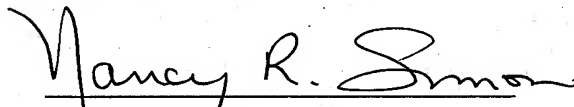
If it can be shown that two or more inventions are independent, and if there would be a serious burden on the examiner if restriction is not required, applicant should be required to restrict the claims presented to one of such independent inventions. (emphasis added)

Section 808 of the MPEP further states:

Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention *as claimed* is either independent or distinct from the other(s); and (B) the reasons why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons for insisting upon restriction therebetween as set forth in the following sections. (emphasis added)

Applicants note the Examiner did not provide Applicants with any reasons as to why there is a serious burden on the Examiner if the restriction is not required. Presently, the difference between independent claim 1 and independent claim 4 is the number of transfer gates. Applicants respectfully submit it will not impose a serious burden on the Examiner to search both independent claims 1 and 4 at the same time. Applicants therefore request the withdrawal of the restriction requirement.

Respectfully submitted,

A handwritten signature in cursive script that reads "Nancy R. Simon". The signature is written in dark ink and is positioned above the printed name.

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